

### **REMARKS**

Claims 1 and 3-13 and 15-22 are currently pending, with claims 1 and 21 being the only independent claims. The Abstract has been amended. Dependent claims 14 has been canceled. Dependent claims 7 and 20 have been amended to implement editorial corrections. Claims 21-22 are added. No new matter has been added. Reconsideration of the above-identified application, in view of the following amendments and remarks, is respectfully requested.

The Abstract has been objected to for certain informalities. In particular, the Examiner has objected to the inclusion of the word "means" in the Abstract. In response, applicants have enclosed herewith an new Abstract that addresses the objection in a self-explanatory manner. The Abstract as amended herein is now properly narrative in form, limited to a single paragraph and within 50 to 150 words. Withdrawal of the objection to the Abstract is deemed to be in order.

Claim 14 has been objected to for being an exact duplicate of dependent claim 6. Applicants have canceled claim 14 and therefore this objection is moot.

Claims 7 stands rejected under 35 U.S.C. §112, second paragraph, as indefinite for failure to particularly point out and claim the subject matter which applicants regard as the invention. In response to this rejection, applicants have amended dependent claim 2 in self-explanatory manner. Withdrawal of this rejection is in therefore deemed to be in order.

### **Rejection of Claims under 35 U.S.C. §102 and §103**

Claims 1, 3-8, 11-16, 18 and 20 stand rejected under 35 U.S.C. §102(b) as anticipated by WO 02/40302, which corresponds to U.S. Patent No. 7,252,075 ("*Firtion*"). Claims 1, 3, 4 and 6-19 stand rejected under 35 U.S.C. §103(a) as unpatentable over U.S. Patent No. 4,694,857 ("*Harris*"). For the following reasons, reconsideration of these rejections is requested.

Independent claim 1 recites “wherein the arms of the damping device include at least one first vertical arm extending substantially in a vertical direction and first and second horizontal arms extending substantially horizontally and angled away from the first vertical arm, the first and second horizontal arms being spaced apart in the vertical direction, and at least one of the first and the second horizontal arms is designed as an annular element, wherein a second vertical arm connects the first horizontal arm and the second horizontal arm of the damping device”. The cited art fails to teach or suggest these features.

*Firtion* relates to a fuel reservoir (1) comprising a lower half-shell and (2) an upper half-shell (not shown) assembled one against the other at the periphery (see col. 5, lines 39-41). According to *Firtion*, “[t]he lower half-shell” (2) defines the bottom wall (3) of the reservoir and supports various elements of the fuel supply system of the motor vehicle” (see col. 5, lines 42-44).

The Examiner (at pg. 4 of the Office Action) asserts that the arms (33), (34) and (35) shown in Fig. 3A of *Firtion* correspond to the vertical arms of the claimed damping device. Applicants disagree.

The Examiner-identified vertical arms of *Firtion* do not and cannot meet the recited recitations of independent claim 1. For example, Fig. 3A of *Firtion* fails to teach or suggest first and second horizontal arms which are spaced apart in the vertical direction. Moreover, there is no second vertical arm in the vertical arms (33) of *Firtion* that connects a first horizontal arm and a second horizontal arm of the damping device. *Firtion* (Fig. 3A) shows multiple arms, i.e., (33), (34) and (35), but each of the disclosed arms are configured differently from each other. *Firtion* thus fails to teach or suggest the expressly recited subject matter of independent claim 1, i.e., first and second horizontal arms which are spaced apart in the vertical direction.

Independent claim 1 is thus patentable over *Firtion* for at least this reason. Reconsideration and withdrawal of the rejection under 35 U.S.C. §102(b) are therefore in order, and a notice to that effect is respectfully requested.

*Harris* also fails to disclose the claimed horizontal arms. *Harris* discloses a fuel sender unit for delivering fuel from a fuel tank including a top mounting plate (12). Upper and lower pump support frames (35, 36) suspend a fuel pump (32) (see col. 4, lines 55-57 of *Harris*). The upper support frame (34) includes a central shaft (60) from which fins (62) extend outwardly (see col. 4, lines 59-63). The lower support frame (36) includes legs (88) which are interconnected with the fins (62) and a pump carrier dish (84) on which the fuel pump (32) is supported (see col. 5, lines 34-39). A noise insulating gasket is arranged between the dish (84) and the fuel pump (32) (see col. 5, lines 39-42).

The Examiner-provided analysis of *Harris* is contradictory. On one hand, the Examiner has asserted that the fins (62) of the structure shown in Fig. 1 of *Harris* correspond to the retaining means of independent claim 1. On the other hand, the Examiner has asserted that the fins (62) also correspond to the second horizontal arms of the damping device recited in independent claim 1. Applicants point out that if the *Harris* structure is construed such that the fins (62) of *Harris* correspond to the second horizontal arms of the damping device recited in independent claim 1, then *Harris* would fail to provide the recited retaining means. Under the alternative construction, i.e., the fins (62) correspond to the retaining means, *Harris* still fails to teach or suggest the second arms to provide the spaced apart relationship in the vertical direction as required by independent claim 1.

*Harris* thus fails to teach or suggest "wherein the arms of the damping device include at least one first vertical arm extending substantially in a vertical direction and first and second horizontal arms extending substantially horizontally and angled away from the first vertical arm,

the first and second horizontal arms being spaced apart in the vertical direction” as expressly recited in independent claim 1. Therefore, *Harris* fails to render independent claim 1 obvious and unpatentable and the rejection of claim 1 in view of *Harris* should be withdrawn.

Reconsideration and withdrawal of the rejection under 35 U.S.C. §103(a) are therefore in order, and a notice to that effect is respectfully requested.

In view of the patentability of independent claim 1, dependent claims 3-13 and 15-20 are also patentable over the prior art for the reasons set forth above, as well as for the additional recitations contained therein.

Claim 20 recites “wherein only the first horizontal arm of the first and second horizontal arms is connected directly to the at least one first vertical arm, and wherein only the at least one first vertical arm of the arms is directly connected to the first retaining means.” In the rejection of claim 20, the Examiner indicates that the first horizontal arm is disclosed by reference character (42) of *Firtion*. However, in the rejection of claim 1, from which claim 20 depends, the Examiner indicated that the reference character (42) element of *Firtion* was part of the first retaining means. In fact, the Examiner considered the elements of reference characters (42), (43), and (44) of *Firtion* to collectively disclose the first retaining means. The element of reference character (42) of *Firtion* can not be both the first horizontal arm and the first retaining means. Accordingly, claim 20 should be allowable for at least this additional reason.

Based on the foregoing remarks, this application is in condition for allowance. Early passage of this case to issue is respectfully requested.

Should the Examiner have any comments, questions, suggestions, or objections, the Examiner is respectfully requested to telephone the undersigned in order to facilitate reaching a resolution of any outstanding issues.

It is believed that no fees or charges are required at this time in connection with the present application. However, if any fees or charges are required at this time, they may be charged to our Patent and Trademark Office Deposit Account No. 03-2412.

Respectfully submitted,  
COHEN PONTANI LIEBERMAN & PAVANE LLP

By /Alfred W. Froebrich/  
Alfred W. Froebrich  
Reg. No. 38,887  
551 Fifth Avenue, Suite 1210  
New York, New York 10176  
(212) 687-2770

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